REMARKS

The Office Action mailed May 2, 2008 made a restriction requirement between the following groups:

Group I – claims 27-40 directed to progeny cells comprising a gene encoding a MrgA protein or functional homologue thereof;

Group II – claims 41 and 46 directed to methods of enhancing secretion of a protein comprising expressing the protein in a progeny cell comprising a gene encoding a MrgA protein or functional homologue thereof;

Group III – claims 42-45 directed to methods of producing a progeny cell comprising a gene encoding a MrgA protein or functional homologue thereof;

The restriction requirement is respectfully traversed.

The above-captioned application was entered into the national stage under 35 U.S.C. 371, i.e. filed via the PCT. For these types of applications, the PTO follows the rules set forth in 37 C.F.R. 1.401 - 1.499.

The standard for determining whether unity of invention exists during the national stage, i.e. whether a restriction requirement may be imposed, is set forth in 37 C.F.R. 1.475(a) which provides:

> An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.... Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Moreover, under 37 C.F.R. 1.475(b), an international or a national stage application in the national stage complies with the unity of invention requirement if the claims are drawn only to one of the following combinations of categories:

> (1) A product and a process specially adapted for the manufacture of said product; or
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> (2) A product and a process of use of said product; or
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> (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specially designed for carrying out the said process.

In the present case, the inventions designated I, II and II are directed to a product, a method of using the product, and a method for producing the product. Under 37 C.F.R. 1.475(b)(5), these inventions comply with the unity of invention requirement.

Significantly, no objection to unity of invention was raised by the International Searching Authority.

Applicant, therefore, respectfully submits that the restriction requirement is improper. Applicant respectfully requests reconsideration and withdrawal of the restriction requirement.

In order to be fully responsive, Applicants hereby elect the invention of Group II, *i.e.*, claims 41 and 46. Applicants hereby reserve the right to file divisional applications directed to the nonelected subject matter.

The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this response or application.

Respectfully submitted,

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